

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of the Accusation by the
STATE OF CALIFORNIA,
DEPARTMENT OF
TRANSPORTATION,

Complainant,

vs.

REGENCY OUTDOOR
ADVERTISING, INC.,

Respondent.

OAH Nos. N2005120219
N2005120220

**ORDER ON RESPONDENT'S MOTION
TO COMPEL DISCOVERY**

The Motion to Compel Further Discovery brought by respondent Regency Outdoor Advertising, Inc. (Regency), came on regularly for a telephonic hearing before Administrative Law Judge Timothy S. Thomas (ALJ) on February 17, 2006, at Los Angeles, California.

Regency was represented by Alene M. Taber and Kathryn M. Casey, Attorneys at Law. The California Department of Transportation (Caltrans) was represented by O. J. Solander, Attorney at Law, and Beckie Haley, Senior Legal Analyst.

The parties agreed that the issues in dispute had been narrowed to the following:

1. In case number N2005120219, whether respondent is entitled to statements of witnesses Ibarra and Gerda pursuant to Government Code section 11507.6, subdivision (c);
2. In case number N2005120220, whether respondent is entitled to statements of witnesses Ibarra, Gerda and Williams;
3. In case number N2005120220, whether respondent is entitled to documents in response to its Additional Information request number 9, "Other Caltrans' decisions to revoke permits involving landscaping designations and all documents related to the same."

The ALJ, having read and considered the moving and opposition papers filed by the parties, and having heard and considered the arguments made orally at the hearing, rules and orders as follows on respondent's motion:


1. Respondent's motion to compel the production of witness statements from witnesses Ibarra and Gerda is denied. The statements do not exist and Government Code section 11507.6, subdivision (c), does not require complainant to prepare statements of their anticipated testimonies.

2. Respondent's motion to compel the production of witness statements from witnesses Ibarra, Gerda and Williams is denied. The statements do not exist and Government Code section 11507.6, subdivision (c), does not require complainant to prepare statements of their anticipated testimonies.

3. Respondent's motion to compel the production of other Caltrans' decisions to revoke permits involving landscaping designations and all documents related to the same is denied. The agency's decisions relating to other outdoor advertisers, not parties to this matter, are not relevant. With respect to respondent's claim that the records should be produced pursuant to the Public Records Act (Government Code section 6250, et seq.), the Administrative Procedure Act does not provide the ALJ with the authority to enforce the Public Records Act. Respondent's remedy for a refusal to respond affirmatively to a proper request for public records lies with the Superior Court.

IT IS SO ORDERED.

DATED: February 17, 2006


TIMOTHY S. THOMAS
Administrative Law Judge
Office of Administrative Hearings


DESIGNATION OF PRECEDENT DECISION – OUTDOOR ADVERTISING

The Department of Transportation designates the following as a precedent decision pursuant to Government Code section 11425.60, effective upon posting on the webpage of the Outdoor Advertising Section:

State v. Regency Outdoor Advertising
OAH Nos. N2005120219, N2005120220
“Order on Respondent’s Motion to Compel Discovery”
February 16, 2006

Designation No: CTODA 07-002

Dated: January 31, 2007



Robert Copp
Chief, Division of Traffic Operations
Designee of the Director for Outdoor
Advertising matters